Commission Delegated Regulation (EU) 2020/411 of 19 November 2019 amending Directive 2009/45/EC of the European Parliament and the Council on safety rules and standards for passenger ships, as regards the safety requirements for passenger ships engaged on domestic voyages (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/411

of 19 November 2019

amending Directive 2009/45/EC of the European Parliament and the Council on safety rules and standards for passenger ships, as regards the safety requirements for passenger ships engaged on domestic voyages

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/45/EC of the European Parliament and the Council of 6 May 2009 on safety rules and standards for passenger ships[(1)], and in particular Article 10(2) thereof,

Whereas:

(1) The International Conventions referred to in point (a) of Article 2 of Directive 2009/45/EC have been amended. A detailed review of technical elements has also shown that some of the earlier amendments of International Conventions have been omitted.

(2) Directive (EU) 2017/2108 of the European Parliament and the Council[(2)] amended the definition of ‘equivalent material’ to include aluminium ships within the scope of Directive 2009/45/EC. To ensure harmonised implementation, it is necessary to enter a number of technical clarifications in the Annexes to Directive 2009/45/EC with regard to aluminium ships.

(3) Furthermore, Directive (EU) 2017/2108 has excluded passenger ships measuring less than 24 metres in length from the scope of Directive 2009/45/EC. The technical requirements for those ships should therefore be deleted from Annex I to Directive 2009/45/EC.

(4) Experience has revealed several ambiguities and inconsistencies in the technical requirements related to missing or incorrect references.

(5) The Regulatory Fitness and Performance Programme (REFIT) found that the outdated format of Annex I to Directive 2009/45/EC meant that the safety standards for passenger ships engaged on domestic voyages has become extremely difficult to compare against the existing international requirements. The REFIT fitness check included a recommendation to simplify that Annex to increase its readability.

(6) Pursuing this simplification and increased readability, while also updating some technical requirements, it is deemed appropriate to structure the Annex I of Directive 2009/45/EC into two sections, one being applicable to ships, the keel of which was laid

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/411. (See end of Document for details)*

or which were at a similar stage of construction before 19 September 2021, and the other one being applicable to ships, the keel of which was laid or which were at a similar stage of construction on or after 19 September 2021. Section 1 of Annex I shall contain the most relevant updates concerning the elimination of all provisions for passenger ships below 24m in length, provisions for protections against noise, emergency towing procedures, and requirements for ships using low flashpoint fuels.

(7) Experience with Directive 2009/45/EC has shown that it could take up to 30 months for each update of international standards to be transposed into national law. The REFIT fitness check has therefore recommended exploring whether the current update procedure can be accelerated in order to reduce the transposition costs for Member States. Experience with the implementation of other directives in the field, has shown that updating the technical requirements by means of a Regulation reduces the time for the adaptation to revised requirements of the International Maritime Organisation ('IMO') and eliminates transposition costs for Member States. Therefore, the technical safety requirements and the corresponding certificate forms laid down in Annexes I, II and III to Directive 2009/45/EC should be set out by means of a Regulation.

(8) To provide sufficient time for operators to adapt to the amended technical requirements contained in the Annexes to this Regulation, as well as to enable Member States to repeal their national measures transposing the Annexes of Directive 2009/45/EC, and to adapt their national provisions in order to ensure the full effectiveness of those amended technical requirements, the application should be deferred.

(9) Directive 2009/45/EC should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Directive 2009/45/EC is amended as follows:

(1) Annex I is replaced by the text in Annex I to this Regulation.

(2) Annex II is replaced by the text in Annex II to this Regulation.

(3) Annex III is replaced by the text in Annex III to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 19 September 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/411. (See end of Document for details)*

Done at Brussels, 19 November 2019.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/411. (See end of Document for details)*

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Section 1 applies to new and existing passenger ships the keel of which was laid or which were at a similar stage of construction before 19 September 2021.

4.

Existing class C and D ships do not have to comply with the regulations of Chapters II-1 and II-2 of this Section, provided that the Administration of a flag State, which flag such ships are entitled to fly, ensures that they comply with the flag State's national rules and that such rules guarantee an equivalent level of safety to those applicable to new class C&D or existing class B ships.

6.

Regardless of what is provided in Article 6.1(b), Class D ships not extending their voyage outside of Sea Area A 1, as defined in Regulation IV/2.12 of the 1974 SOLAS Convention, do not have to comply with the carriage requirements in Chapter IV of the 1974 SOLAS Convention, but shall at least comply with the provisions in Chapter IV of this Annex.

7.

The provisions for navigation bridge visibility in Regulation V/22 of the 1974 SOLAS Convention, shall as far as is practicable and reasonable apply also to ships of less than 55 meters' in length, where 'length' is as defined in Regulation V/2 of the 1974 SOLAS Convention.

8.

Wherever the application of an IMO resolution is required in this Section for existing ships, ships constructed until two years after the date of adoption by IMO of such resolution need not comply with such resolution provided they comply with the applicable previous resolution(s), if any.

10.Within this Section, the indication '(R…)' that follows several titles of Regulations refers to those Regulations of the 1974 SOLAS Convention on which the former have been based i.e.:

11.Provisions applicable to CLASS A SHIPS can be found in:

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Class B, C and D ships the keel of which was laid on or after 1 January 2009, or which were at a similar stage of construction on that date, shall apply the requirements in part B-2 or, alternatively, the appropriate provisions of SOLAS Chapter II-I, part B, as laid down in Annex 2 of Resolution MSC 216(82).

Part B-2Ships constructed before 1 January 20091.Regulation II-1/B-2/1: Intact stability Resolution A.749(18) as amended by Resolution MSC.75(69)NEW CLASS A, B, C AND D SHIPS

All classes of new ships shall comply with the relevant provisions for passenger ships of the Code on Intact Stability as adopted by the IMO Resolution A.749(18), as amended.

Where Member States consider the application of the Severe Wind and Rolling Criterion of IMO Resolution A.749(18), as amended, inappropriate, an alternative approach ensuring satisfactory stability may be applied. This should be supported by evidence to the Commission which confirms that an equivalent level of safety is achieved.

EXISTING CLASS A AND B SHIPS

All existing class A and B ships shall, in all loading conditions, satisfy the following stability criteria after due correction for the effect of free surface of liquids in tanks in accordance with the assumptions of paragraph 3.3 of IMO Resolution A.749(18) as amended, or equivalent.

The loading conditions to be considered in order to verify the compliance with the above stability criteria shall include at least those listed in paragraph 3.5.1.1 of IMO Resolution A.749(18), as amended.

All existing ships of classes A and B shall also comply with the additional criteria as given in IMO Resolution A.749(18), as amended, paragraph 3.1.2.6 (additional criteria for passenger ships) and paragraph 3.2 (Severe Wind and Rolling Criterion).

Where Member States consider the application of the Severe Wind and Rolling Criterion of IMO Resolution A.749(18), as amended, inappropriate, an alternative approach to ensuring satisfactory stability may be applied. This should be supported by evidence to the Commission which confirms that an equivalent level of safety is achieved.

2.Regulation II-1/B-2/2: Watertight subdivisionNEW CLASS B, C AND D AND EXISTING CLASS B SHIPS:

Every ship shall be subdivided by bulkheads, which shall be watertight up to the bulkhead deck, into watertight compartments the maximum length of which shall be calculated according to the specific requirements given below.

Instead of those requirements, the Regulations on subdivision and stability of passenger ships as an equivalent to Part B of Chapter II of the International Convention for the Safety of Life at Sea, 1960, as given in IMO Resolution A.265(VIII) may be used, if applied in their entirety.

Every other portion of the internal structure which affects the efficiency of the subdivision of the ship shall be watertight.

3.Regulation II-1/B-2/3: Floodable length (R 4)NEW CLASS B, C AND D AND EXISTING CLASS B SHIPS:

4.Regulation II-1/B-2/4: Permissible length of compartments (R 6)NEW CLASS B, C AND D AND EXISTING CLASS B SHIPS:

The maximum permissible length of a compartment having its centre at any point in the ship's length is obtained from the floodable length by multiplying the latter by an appropriate factor called factor of subdivision.

5.Regulation II-1/B-2/5: Permeability (R 5)NEW CLASS B, C AND D AND EXISTING CLASS B SHIPS:

The definite assumptions referred to in Regulation II-1/B-2/3 relate to the permeability of the spaces below the margin line.

In determining the floodable length, the assumed average permeability of the spaces below the margin line shall be as indicated in the table in Regulation II-1/B-2/8.3.